THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.15183 of 2004

Dated:31.08.2006

Between:

Chitikena Venkanna and others.

…Petitioners

and

The Govt. of Andhra Pradesh and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.15183 of 2004

ORDER:

The three petitioners filed the present Writ Petition seeking a writ of mandamus declaring the action of the respondents in trying to evict them from the land in Survey No.465 totally admeasuring Acs.7.14 cents in Apparaopeta Village, Tadepalligudem Mandal in West Godavari District, as arbitrary and illegal. They also seek a consequential direction not to dispossess them.

Though interlocutory matters are listed, the matter is heard finally and is being disposed of by this order having regard to the subsequent events brought out in the counter affidavit.

The petitioners claim that all of them are in possession of the lands admeasuring Ac.1.00, Ac.1.50 cents and Ac.0.03 cents in Survey No.465 by reason of a lease granted by Kundeti Desamma, who was given the land in 1943. They allege that the land in their possession is abutting the Government lake. Respondents 3 and 4 allegedly came to the land with a view to dispossess the petitioners without due process of law and without resorting to the provisions of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act').

In the counter affidavit it is stated that the land in Survey No.465 is registered in the village records as tank poramboke, that no patta was granted in respect of the said land and that an order under Section

6 of the Act has already been passed for eviction of the petitioners.

Learned Counsel for the petitioners strenuously contends that no notice was issued to the petitioners before passing the orders under Section 6 of the Act, and therefore, the same is unsustainable. He also submits that the land in the occupation of the petitioners does not form part of the tank poramboke and it is abutting the tank poramboke and therefore, there cannot be any objection for the petitioners' occupation.

During the course of hearing, the learned Assistant Government Pleader appearing for the respondents placed before this Court three orders passed under Section 6 of the Act against the petitioners herein. It is sufficient compliance with the provisions of the Act. This Writ Petition is filed alleging that due process of law is not followed before attempting to evict the petitioners. Now that orders are passed, it would be open to the petitioners to approach the Revenue Divisional Officer by way of an appeal under Section 10 of the Act within a period of ten (10) days from the date of receipt of a copy of this order. As and when such appeals are filed, the Revenue Divisional Officer having jurisdiction shall entertain the same and pass appropriate orders in accordance with law after giving opportunity to the petitioners. If the petitioners are still in possession of the land, which does not form part of the tank poramboke in Survey No.465, there shall be *status quo* as on today.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

31.08.2006
vs